

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT			1. CONTRACT ID CODE		PAGE OF PAGES 1 9		
2. AMENDMENT/MODIFICATION NO. 0003		3. EFFECTIVE DATE May 26, 2000		4. REQUISITION/PURCHASE REQ. NO. SP0600-00-0625-0001		5. PROJECT NO. (If applicable)	
6. ISSUED BY DEFENSE FUEL SUPPLY CENTER 8725 JOHN J. KINGMAN ROAD FT. BELVOIR, VA 22060-6200 C. CREASON/DFSC-PLC PHONE: 703-767-9551 FAX - 703-767-8506		CODE SP0600 PP 1.8T		7. ADMINISTERED BY (If other than Item 6)		CODE	
8. NAME AND ADDRESS OF CONTRACTOR (NO., street, city, county, State, and ZIP Code)				(✓)		9A. AMENDMENT OF SOLICITATION NO. SP0600-00-R-0110	
				X		9B. DATED (SEE ITEM 11) 16 FEBRUARY 00	
						10A. MODIFICATION OF CONTRACT/ORDER NO.	
						10B. DATED (SEE ITEM 13)	
BIDDER CODE: CAGE CODE:							
CODE		FACILITY CODE					
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS							
<p><input checked="" type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offers [] is extended, [X] is not extended</p> <p>Offers must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended, by one of the following methods:</p> <p>(a) By completing Items 8 and 15, and returning <u>1</u> copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.</p>							
12. ACCOUNTING AND APPROPRIATION DATA (If required)							
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS, IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.							
A. THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.							
B. THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(b)							
C. THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:							
D. OTHER Specify type of modification and authority)							
E. IMPORTANT: Contractor [] is not, [] is required to sign this document and return <u> </u> copies to the issuing office.							
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.)							
A. Offerors must acknowledge receipt of this amendment by completing block 8 above, signing and dating blocks 15A., 15B. and 15C. below. Please submit completed copy to DESC-PLB via facsimile, 703-767-8506.							
B. Clause B1.05, SUPPLIES TO BE FURNISHED (OVERSEAS PC&S/ALASKA) is modified as follows:							
(1) The following note is added under paragraph (c): "The Government is entitled to at least one hour of free time. In addition, the Government is entitled to at least as much free time as the Contractor normally allows its regular commercial customers. Unless the offeror indicates otherwise, free time will be considered unlimited."							
Except as provided herein, all terms and conditions of the document referenced in Items 9A or 10A, as heretofore changed, remain unchanged and in full force and effect.							
15A. NAME AND TITLE OF SIGNER (Type or print)				16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)			
15B. CONTRACTOR/OFFEROR		15C. DATE SIGNED		16B. UNITED STATES OF AMERICA		16C. DATE SIGNED	
(Signature of person authorized to sign)				(Signature of Contracting Officer)			

(2). The narratives for items 0700-28 and 0700-34 are changed **to include delivery hours** as follows:

700-28 GASOLINE, REG UNL (MUR)
DELIVERY HOURS: 0730-1600

700-34 DIESEL FUEL #2 (DF2)
DELIVERY HOURS: 24 HOURS A DAY.

C. The following clauses are hereby deleted from the solicitation:

C16.26 FUEL OIL, DIESEL (DFA/DF1/DF2) (DESC JUL 1999)
E21.01 SUPPLEMENTAL INSPECTION (OVERSEAS) (DESC JUL 1999)
E22.01 QUALITY REPRESENTATIVE (DESC JUL 1992)
F3 TRANSPORT TRUCK AND/OR TRUCK AND TRAILER FREE TIME AND DETENTION
RATES (PC&S/COAL) (DESC APR 1998)
F18 F.O.B. DESTINATION (NOV 1991) (Previously incorporated by reference (IBR))
F51 SHIPMENT AND ROUTING (OVERSEAS) (DESC NOV 1972)
F105 VARIATION IN QUANTITY (Clause is now IBR)
G3 INVOICE NUMBERING REQUIREMENTS (DESC AUG 1998)
G5 ADMINISTRATIVE CHANGES UNDER DIRECT DELIVERY FUELS CONTRACTS
(DESC MAR 1999)
G9.07 ELECTRONIC TRANSFER OF FUNDS PAYMENTS - CORPOPORATE TRADE EXCHANGE
(DESC NOV 1999)
I1.03-1 CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS)(MAY 1999)
(Previously IBR)
G150.03 ELECTRONIC SUBMISSION OF INVOICES FOR PAYMENT (EDI)(DESC OCT 1998)
G150.06-2 SHIPMENT NUMBER TO BE IDENTIFIED ON INVOICES 9PC & S) (DESC AUG 1995)
I86.03 DELIVERY ORDER LIMITATIONS (P C & S) (DESC MAY 1996)
K5 USE OF ELECTRONIC DATA INTERCHANGE (DESC MAY 1994)
M16.01 EVALUATION OF BIDS FOR MULTIPLE AWARDS (MAR 1990) (Previously IBR)

D. The following clauses are hereby added to the solicitation. The clauses are contained in full text in this amendment.

F29.01 CONTRACTOR ORDERING AGENTS (DESC FEB 1995)
G9.11 DESIGNATION OF OFFICE FOR GOVERNMENT RECEIPT OF ELECTRONIC TRANSFER
OF FUNDS INFORMATION
I1.03-3 CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (PC&S)(DESCMAR 2000)
I86.06 DELIVERY ORDER LIMITATIONS (OVERSEAS PC&S) (DESC AUG 1990)
I190.06 MATERIAL SAFETY DATA SHEETS -- COMMERCIAL ITEMS
L74 TYPE OF CONTRACT (APR 1984)

E. The following clause is revised from the original solicitation. The revision is contained in full text in this amendment.

I1.20-1 CLAUSES INCORPORATED BY REFERENCE (NOV 1999)

F29.01 CONTRACTOR ORDERING AGENTS (DESC FEB 1995)

Orders placed hereunder shall be directed to the prime Contractor at the address indicated on the cover page unless another address is indicated below.

(NOTE: Offeror to complete when submitting proposal.)

(DESC 52.216-9F85)

G9.11 DESIGNATION OF OFFICE FOR GOVERNMENT RECEIPT OF ELECTRONIC TRANSFER OF FUNDS INFORMATION (MAY 1999)

(a) As provided in paragraph (b) of the PAYMENT BY ELECTRONIC FUNDS TRANSFER - OTHER THAN CENTRAL CONTRACTOR REGISTRATION clause, the Government has designated the office cited in paragraph (c) of this clause as the office to receive the Contractor's electronic funds transfer (EFT) information, in lieu of the payment office of this contract.

(b) The Contractor shall send all EFT information and any changes to EFT information to the office designated in paragraph (c) of this clause. The Contractor shall not send EFT information to the payment office or any other office than that designated in paragraph (c). The Government need not use any EFT information sent to any office other than that designated in paragraph (c).

(c) DESIGNATED OFFICE.

Name: _____

Mailing Address: _____

Telephone Number(s): _____

Person(s) to Contact: _____

Electronic Address: _____

(FAR 52.232-35)

II.20-1 CLAUSES AND PROVISIONS INCORPORATED BY REFERENCE (DESC NOV 1999)

(a) This clause incorporates contract clauses and solicitation provisions by reference with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available.

(b) The full text of any FAR, DFARS, or DLAD solicitation clause or provision may be accessed electronically at these addresses:

FAR/DFARS: <http://farsite.hill.af.mil>
FAR/DFARS: <http://www-far.npr.gov>
DLAD: <http://www.procregs.hq.dla.mil/icps.htm>

(c) All **DESC** clauses and provisions are contained in full text in this document.

(d) **Solicitation Provisions Only.** The offeror is cautioned that the solicitation provisions listed in (e)(1) below may include blocks that must be completed by the offeror and submitted with its quotation or offer. As long as the offeror identifies the solicitation provision by number, the offeror may simply complete those paragraphs requiring fill-in information to submit with its quotation or offer. In addition to the solicitation provisions listed in (e)(1) below, the contract clauses listed in (e)(2) below shall apply to any resultant contract but do not require the submission of additional offer information.

(e) **The** following FAR/DFARS/DLAD contract clauses and solicitation provisions are hereby incorporated by reference in addition to those listed in the CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS - COMMERCIAL ITEMS and the CONTRACT TERMS AND CONDITIONS REQUIRED TO IMPLEMENT STATUTES OR EXECUTIVE ORDERS APPLICABLE TO DEFENSE ACQUISITIONS OF COMMERCIAL ITEMS clauses:

(1) <u>SOLICITATION PROVISION NUMBER</u>	<u>REGULATORY NUMBER</u>	<u>PROVISION TITLE</u>
K1.01-10	FAR 52.212-3/ ALTS I/III	OFFEROR REPRESENTATIONS AND CERTIFICATIONS - COMMERCIAL ITEMS (ALTS I/III)
K1.05	DFARS 252.212-7000	OFFEROR REPRESENTATIONS AND CERTIFICATIONS (DFARS 252.212-7000)
K85	DFARS 252.209-7001	DISCLOSURE OF OWNERSHIP OR COTROL BY THE GOVERNMENT OF A TERRORIST COUNTRY
L2.10	FAR 52.214-34	SUBMISSION OF OFFERS IN THE ENGLISH LANGUAGE
L2.10-1	FAR 52.214-35	SUBMISSION OF OFFERS IN U.S. CURRENCY
L2.11-2 Under Paragraph © "The telephone number of receiving facsimile equipment is 703-767-8506.	FAR 52.215-5	FACSIMILIE PROPOSALS
L5.01-1	DLAD 52.233-9000	AGENCY PROTESTS

Clause I1.20-1 (Cont'd)

(2)

<u>CONTRACT CLAUSE NUMBER</u>	<u>REGULATORY NUMBER</u>	<u>CLAUSE TITLE</u>
E5	FAR 52.246-2	INSPECTION OF SUPPLIES - FIXED-PRICE
F105	FAR 52.211-16	VARIATION IN QUANTITY
Under paragraph (b), "The permissible variation shall be limited to <u>10% increase/decrease</u> . The increase or decrease shall apply to <u>each delivery order</u> .		
I1.07	DFARS 252.204-7004	REQUIRED CENTRAL CONTRACTOR REGISTRATION
I11.04	FAR 52.242-13	BANKRUPTCY
I12.02	CHOICE OF LAW (OVERSEAS)	
I27	FAR 52.203-3	GRATUITIES
I28.21	FAR 52.229-6	TAXES - FOREIGN FIXED-PRICE CONTRACTS)
I33	FAR 52.232-17	INTEREST
I84	FAR 52.216-21	REQUIREMENTS
Under paragraph (f): " 30 days after the expiration of the ordering period."		
I211	FAR 52.216-18	ORDERING
Under paragraph (a) orders may be issued from <u>date of award</u> through <u>June 30, 2002</u>		

I1.03-3 CONTRACT TERMS AND CONDITIONS - COMMERCIAL ITEMS (PC&S) (DESC MAR 2000)

(a) INSPECTION/ACCEPTANCE.

(1) The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its post-acceptance rights (i) within a reasonable time after the defect was discovered or should have been discovered; and (ii) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.

(2) Also see the REQUESTS FOR WAIVERS AND DEVIATIONS clause in the Addendum.

(b) ASSIGNMENT. The Contractor or its assignee's right to be paid amounts due as a result of performance of this contract, may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727).

(c) CHANGES. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) DISPUTES. This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, DISPUTES, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) DEFINITIONS. The clause at FAR 52.202-1, DEFINITIONS, is incorporated herein by reference.

(f) **EXCUSABLE DELAYS.** The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the control of the Contractor and without its fault or negligence, such as acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) **INVOICE.** The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include--

- (1) Name and address of the Contractor;
- (2) Invoice date;
- (3) Contract number, contract line item number, and, if applicable, the order number;
- (4) Description, quantity, unit of measure, unit price, and extended price of the item delivered;
- (5) Shipping number and date of shipment including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (6) Terms of any prompt payment discount offered;
- (7) Name and address of official to whom payment is to be sent; and
- (8) Name, title, and phone number of person to be notified in event of defective invoice.

Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A-125, Prompt Payment. Contractors are encouraged to assign an identification number to each invoice.

(h) **PATENT INDEMNITY.** The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.

(i) **PAYMENT.** Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A-125, Prompt Payment. Prompt payment discount will be applied to the total amount of each invoice. If the Government makes payment by Electronic Funds Transfer (EFT), see 52.212-5(b) for the appropriate EFT clause. In the event electronic funds transfers cannot be processed, the Government retains the option to make payment under this contract by check. In connection with any discount offered for early payment, time shall be computed from the date the invoice was received. For the purposes of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or the date on which an EFT was made.

(j) **RISK OF LOSS.** Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon--

- (1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
- (2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.

(k) **TAXES.** See Addendum 2.

(l) **TERMINATION FOR THE GOVERNMENT'S CONVENIENCE.** The Government reserves the right to terminate this contract, or any part thereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms and conditions of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purposes. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.

(m) **TERMINATION FOR CAUSE.** The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) **TITLE.** Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.

(o) **WARRANTY.** The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) **LIMITATION OF LIABILITY.** Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.

(q) **OTHER COMPLIANCES.** The Contractor shall comply with all applicable Federal, State, and local laws, executive orders, rules, and regulations applicable to its performance under this contract.

(r) **COMPLIANCE WITH LAWS UNIQUE TO GOVERNMENT CONTRACTS.** The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C. 327 et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986, 41 U.S.C. 265 and 10 U.S.C. 2409 relating to whistle blower protections; 49 U.S.C. 40118, Fly American; and 41 U.S.C. 423 relating to procurement integrity.

(s) **ORDER OF PRECEDENCE.** Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

- (1) The schedule of supplies/services;
- (2) The Assignments; Disputes, Payments; Invoices; Other Compliances; and Compliance with Laws Unique to Government Contracts paragraphs of this clause;
- (3) The clause at 52.212-5;
- (4) Addenda to this solicitation or contract, including any license agreements for computer software;
- (5) Solicitation provisions if this is a solicitation;
- (6) Other paragraphs of this clause;
- (7) Standard Form 1449;
- (8) Other documents, exhibits, and attachments; and
- (9) The specification.

(FAR 52.212-4, **tailored**/DESC 52.212-9F50)

Changes in the terms and conditions of this contract may be made only by written agreement of the parties, except as follows:

(1) The Government may delete a significant number of tanks and delivery locations from a single item that may alter the method of delivery from a combination of tank truck (TT) and tank wagon (TW) to predominantly TW deliveries. If, as a result of deletions, the primary method of delivery is changed significantly so that increased delivery costs will be incurred, the Contracting Officer must be notified and a determination made to modify the contract. Should no significant increased delivery costs be incurred, the contract price will not be modified.

(2) The Government reserves the right to designate additional delivery points within the approximate same area of a specific item, provided that such additional deliveries are similar to those already under contract for the specific item. Should the Government designate additional delivery points, the Contractor shall not be liable to deliver if such deliveries would result in significantly increased costs to the Contractor. In instances where increased costs would be incurred, the Contracting Officer must be notified and a determination made to modify the contract. Should no significant increase be incurred, additional delivery points shall be furnished at the contract price and without contract modification. All terms, conditions, and provisions of the contract shall apply to additional delivery points added during the term of the contract.

I86.06 DELIVERY-ORDER LIMITATIONS (OVERSEAS PC&S) (DESC AUG 1990)

(a) **MINIMUM ORDER.** The Contractor shall not be obligated to furnish supplies and/or services under this contract in an amount less than the minimum established in the Schedule of a single item for delivery to a single delivery point. In the event the prices established under this contract vary based upon the liter quantity of an individual delivery, the Government reserves the right to withhold ordering, without prejudice, until the individual delivery quantity required reaches a level, as determined by the Ordering Officer, that minimizes the per liter cost to the Government.

(b) **MAXIMUM ORDER.** Unless otherwise stated in the Schedule, the Contractor shall not be obligated to honor--

- (1) Any order for a single item for a single delivery point in excess of 15% of the total estimated requirement;
- (2) Any order for a combination of items for a single delivery point in excess of 15% of the total estimated requirement; or
- (3) A series of orders from the same ordering office in the course of seven days that together call for quantities of items that total in excess of the limitation provided in (1) or (2) above.

(c) The Government is not required to order a part of any one requirement from the Contractor if that requirement exceeds the maximum order limitations in (b) above

Notwithstanding the foregoing, the Contractor shall honor any order exceeding the maximum order limitations set forth above unless the Contractor verbally notifies the Ordering Officer within two workdays after verbal notification of an order or two workdays after receipt of a written order, followed by the return of the written orders to the ordering office, that he does not intend to make shipment of the items called for and the reasons therefor. When the Government has received this verbal notice, the Government may acquire the supplies from another source.

(DESC 52.216-9FK5)

I190.06 MATERIAL SAFETY DATA SHEETS -- COMMERCIAL ITEMS (DESC MAR 2000)

(a) The Contractor agrees to submit to the Contracting Officer, upon request, a Material Safety Data Sheet (MSDS) that meets the requirements of 29 CFR 1910.1200(g) and the latest revision of Federal Standard No. 313 for all requested contract items. MSDSs must cite the contract number, the applicable CAGE code of the manufacturer, and, where so identified, the National Stock Number (NSN).

(b) The data on the MSDSs must be current and complete, reflecting the final composition of the product supplied. Should the description /composition of the product change in any manner from a previously submitted MSDS, the Contractor shall promptly provide a new MSDS to the Contracting Officer.

(DESC 52.223-9F06)

L74 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of a Multiyear Requirements Fixed Price with Economic Price Adjustment contract resulting from this solicitation.

(FAR 52.216-1)